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 Oneida Co., New York
 Onondaga Co., New York
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 Pinellas Co., Florida
 Plymouth Co., Massachusetts
 Polk Co., Florida
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 St. Clair Co., Illinois
 San Bernardino Co., California
 San Diego Co., California
 San Joaquin Co., California
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 Sonoma Co., California
 Suffolk Co., New York
 Wayne Co., Michigan
 Worcester Co., Massachusetts

[44 FR 58091, Oct. 9, 1979. Redesignated at 46 FR 34329, July 1, 1981, and correctly redesignated at 46 FR 43045, Aug. 26, 1981, and amended at 47 FR 15137, Apr. 8, 1982]

PART 73—WORLD HERITAGE CONVENTION

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AUTHORITY: 94 Stat. 3000; 16 U.S.C. 470 a-1, a-2, d.

SOURCE: 47 FR 23397, May 27, 1982, unless otherwise noted.

§ 73.1 Purpose.

The purpose of these rules is to set forth the policies and procedures that the Department of the Interior, through the National Park Service (NPS), uses to direct and coordinate U.S. participation in the Convention Concerning the Protection of the World Cultural and Natural Heritage, which was ratified by the Senate on October 26, 1973. The rules describe the procedures used to implement the Convention under the National Historic Pres-

ervation Act Amendments of 1980. The purpose of the World Heritage Convention is to enhance worldwide understanding and appreciation of heritage conservation, and to recognize and preserve natural and cultural properties throughout the world that have outstanding universal value to mankind.

§ 73.3 Definitions.

Cultural Heritage— Article 1 of the Convention defines “Cultural Heritage” as:

Monuments: architectural works, works of monumental sculpture and painting, elements or structures of an archaeological nature, inscriptions, cave dwellings, and combinations of features, which are of outstanding universal value from the point of view of history, art, or science;

Groups of buildings: groups of separate or connected buildings which, because of their architecture, their homogeneity or their place in the landscape, are of outstanding universal value from the point of view of history, art, or science; and

Sites: works of man or the combined works of nature and of man, and areas including archaeological sites which are of outstanding universal value from the historical, aesthetic, ethnological, or anthropological points of view.

Natural Heritage— Article 2 of the Convention defines “Natural Heritage” as:

Natural features, consisting of physical and biological formations or groups of such formations, which are of outstanding universal value from the aesthetic or scientific point of view;

Geological and physiographical formations and precisely delineated areas which constitute the habitat of threatened species of animals and plants of outstanding universal value from the point of view of science or conservation; and

Natural sites or precisely delineated natural areas of outstanding universal value from the point of view of science, conservation, or natural beauty.

Intergovernmental Committee for the Protection of the World Cultural and Natural Heritage, or *World Heritage Committee*, means the Committee established by Article 8 of the Convention and assisted by the United Nations Educational, Scientific and Cultural Organization (UNESCO). It is composed

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of 21 nations participating in the Convention, and is responsible for implementing the Convention at the international level. Countries represented on the Committee are elected by participating nations and serve for three sessions of the UNESCO General Conference (six years). The Committee establishes criteria which properties must satisfy for inclusion on the World Heritage List, sets policy and procedures, and approves properties for inclusion on the World Heritage List.

World Heritage Convention, or *Convention*, means the Convention Concerning the Protection of the World Cultural and Natural Heritage, ratified by the U.S. Senate on October 26, 1973.

World Heritage List, means the List established by Article 11 of the Convention which includes those cultural and natural properties judged to possess outstanding universal value for mankind.

UNESCO, means the United Nations Educational, Scientific and Cultural Organization, which provides staff support for the Convention and its implementation.

Assistant Secretary, means the Assistant Secretary for Fish and Wildlife and Parks, U.S. Department of the Interior, or the designee authorized to carry out the Assistant Secretary's responsibilities.

Department, means the U.S. Department of the Interior.

Federal Interagency Panel for World Heritage, or *Panel*, means the Panel consisting of representatives from the Office of the Assistant Secretary, the National Park Service, and the U.S. Fish and Wildlife Service within the Department of the Interior; the President's Council on Environmental Quality; the Smithsonian Institution; the Advisory Council on Historic Preservation; the Department of Commerce; and the Department of State.

Owner, means the individual(s) or organization(s) of record that own private land that is being nominated for World Heritage status, or the head of the public agency, or subordinate to whom such authority has been delegated, responsible for administering public land that is being nominated for World Heritage status.

Owner concurrence, means the concurrence of all owners of any property interest that is part of the World Heritage nomination.

[47 FR 23397, May 27, 1982, as amended at 62 FR 30235, June 3, 1997]

§ 73.5 Authority.

The policies and procedures contained herein are based on the authority of the Secretary of the Interior under title IV of the National Historic Preservation Act Amendments of 1980 (Pub. L. 96-515; 94 Stat. 3000; 16 U.S.C. 470a-1, a-2) which directs the Secretary to ensure and direct U.S. participation in the Convention Concerning the Protection of the World Cultural and Natural Heritage, approved by the U.S. Senate on October 26, 1973, in cooperation with the Secretary of State, the Smithsonian Institution, and the Advisory Council on Historic Preservation.

§ 73.7 World Heritage Nomination process.

(a) *Overview*. The Assistant Secretary periodically nominates properties which appear to be of outstanding universal value to the World Heritage Committee on behalf of the U.S. The initial identification of properties for nomination, and subsequent preparation, evaluation, and approval of U.S. nominations for properties so identified is an annual process (January–December) which is initiated through a FEDERAL REGISTER notice that includes the indicative inventory of potential future U.S. World Heritage nominations and requests recommendations from interested public and private sources. The Assistant Secretary, working in cooperation with the Federal Interagency Panel for World Heritage, may select a limited number of proposed nominations from the properties on the indicative inventory. A detailed nomination document is prepared for each property identified as a proposed nomination. The Panel reviews the accuracy and completeness of the draft nominations, and makes recommendations to the Assistant Secretary. If approved, the Assistant Secretary transmits the U.S. nominations, through the Department of State, to UNESCO for review and approval by

the World Heritage Committee during the following year.

(b) *Identification*—(1) *Requirements*. In order for a U.S. property to be considered for possible nomination to the World Heritage List, it must satisfy the following legislative requirements in addition to satisfying one or more of the World Heritage criteria (§ 73.9):

(i) The property must have previously been determined to be of national significance (16 U.S.C. 470a-1). For the purposes of these rules, “national significance,” refers to properties designated as National Historic Landmarks (36 CFR part 65) or National Natural Landmarks (36 CFR part 62) by the Secretary of the Interior under provisions of the 1935 Historic Sites Act (Pub. L. 74-292; 49 Stat. 666; 16 U.S.C. 461 et seq.), or areas of national significance established by the Congress of the U.S. or by Presidential proclamation under the Antiquities Act of 1906 (16 U.S.C. 433);

(ii) The property’s owner(s) must concur in writing to the nomination (16 U.S.C. 470a-1). In the case of properties owned or controlled by Federal, State, and/or local governments, a letter from the owner(s) would demonstrate concurrence. In the case of properties owned or controlled by private parties, the protection agreement outlined in § 73.13(c) would demonstrate concurrence. Any owner must concur before his/her property may be included within the World Heritage nomination. For example, concurrence from the responsible management official for Federal property indicates concurrence for the management unit, but does not indicate concurrence of any non-Federal property interest located within its boundaries. Concurrence of any non-Federal property interest will be sought if that property interest is determined to be integral to the entire property’s outstanding universal values. To be included within the World Heritage nomination, the owner of the non-Federal property interest would indicate concurrence by fulfilling the protection requirement outlined in § 73.13(c); and

(iii) The nomination document must include evidence of such legal protections as may be necessary to ensure the preservation of the property and its

environment (16 U.S.C. 470a-1). The protection requirements for public and private properties are identified in § 73.13.

(2) *Process Initiation*. The Assistant Secretary, through the National Park Service (NPS), publishes a notice in the FEDERAL REGISTER in January of each year initiating the annual U.S. World Heritage nomination process. Among other things, this notice:

(i) Sets forth the annual schedule and procedures for identifying proposed U.S. nominations to the World Heritage List, including specific deadlines for receipt of suggestions and comments, and for preparing and approving nomination documents for properties so identified;

(ii) Includes the indicative inventory of potential future U.S. nominations to the World Heritage List, and solicits recommendations on properties on the inventory which should be nominated that year, or suggestions of additional properties that should be considered for inclusion on the inventory.

(iii) Identifies any special requirements that properties must satisfy to be considered for possible nomination.

(3) *Inventory*. The National Park Service compiles and maintains an indicative inventory of cultural and natural properties located within the U.S. that, based on preliminary examination, appear to qualify for World Heritage status and that may be considered for nomination to the World Heritage List. The inventory is a tentative list of properties that the U.S. may nominate at some point in the future. Inclusion of a property on the inventory does not confer World Heritage status on it, but merely indicates that a property may be further examined for possible nomination. Properties included on this inventory are drawn from suggestions received from any interested party and from the Department’s own sources. The inventory is used as the basis for selecting future U.S. nominations, and provides a comparative framework within which the outstanding universal value of a property may be judged. Proposed nominations are selected from among the potential future nominations included on the inventory. Any agency, organization, or individual may recommend additional

properties, with accompanying documentation, that should be considered for inclusion on the inventory. Except in exceptional circumstances, a property must be listed on the indicative inventory before it can be considered for nomination. The Assistant Secretary, in cooperation with the Panel and other sources as appropriate, determines whether the recommended property should be included on the inventory. If approved for inclusion on the inventory, the property will be listed when the inventory is next published in the FEDERAL REGISTER. The Assistant Secretary transmits a copy of the inventory of potential future U.S. World Heritage nominations, including documentation on each property's location and significance, to the World Heritage Committee for use in its evaluation of nominations, as requested by Article 11(1) of the Convention.

(4) *Selection of Proposed Nominations.* After the January notice's comment period has expired, the National Park Service compiles all suggestions and comments received. Using the recommendations received and working in cooperation with the Federal Interagency Panel for World Heritage, the Assistant Secretary may identify properties as proposed U.S. nominations for a given year. In addition to how well the property satisfies the World Heritage criteria (§73.9) and the legislative requirements outlined in §73(b)(i), considerations in the selection of proposed nominations may include:

- (i) How well the particular type of property (i.e., theme or region) is already represented on the World Heritage List;
- (ii) The balance between cultural and natural properties already included on the List and those currently under consideration;
- (iii) The opportunities afforded by the property for public visitation, interpretation, and education;
- (iv) Potential threats to the property's integrity or its current state of preservation; and
- (v) Other relevant factors, including public interest and awareness of the property.

Selection of a property as a proposed nomination indicates that it appears to

qualify for World Heritage status and that a detailed nomination document will be prepared for the property. This document serves as the basis for making the decision to nominate the property to the World Heritage Committee (§73.7(e)).

(c) *Notification.* Following decisions on the proposed U.S. nominations, the Assistant Secretary publishes the results in the FEDERAL REGISTER. If properties are identified as proposed nominations, the Assistant Secretary notifies the following parties in writing:

- (1) The owner(s) of lands or interests of land that are to be included in the nomination; and
- (2) The Committee on Interior and Insular Affairs of the U.S. House of Representatives and the Committee on Energy and Natural Resources of the U.S. Senate.

The notice advises the recipients of the proposed action, references these rules, and sets forth the process that will be followed in preparing the nominations. The NPS prepares and issues a press release on the proposed nominations.

(d) *Nomination Preparation.* Following selection of proposed nomination(s), the NPS coordinates arrangements for the preparation of a detailed nomination document for each property. The owner(s) of the proposed property, in cooperation with NPS, is responsible for preparing draft nomination documents and for gathering necessary documentation in support of the nomination. The NPS oversees the nomination preparation process, and ensures that the procedural guidelines set forth by the World Heritage Committee and contained in these rules are satisfied. Each nomination is prepared according to the format and requirements established by the World Heritage Committee, and according to the schedule set forth in the annual January FEDERAL REGISTER notice (§73.7(b)(2)). In preparing nominations, consideration is given to including within their boundaries only those areas that appear to be of outstanding universal value to mankind.

(e) *Nomination Evaluation.* Following completion of the draft nomination document(s), the NPS coordinates their review and evaluation. The NPS distributes copies to all representatives

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on the Panel, with a request for comments regarding the adequacy of the nomination document and the significance of the property being nominated. The NPS compiles the recommendations and comments received from representatives on the Panel.

(f) *Nomination.* The Assistant Secretary, based on his/her evaluation and the recommendations of the Panel, nominates properties which appear to possess outstanding universal value to the World Heritage Committee on behalf of the U.S. The Assistant Secretary transmits the nomination(s), through the Department of State, to UNESCO. The nomination(s) should be transmitted so that they are received by UNESCO prior to the January 1 deadline for any given year.

(g) *Notification.* When the nomination has been approved, as in paragraph (f) of this section, the Assistant Secretary publishes notice of this action in the FEDERAL REGISTER. In addition, the Assistant Secretary notifies the following parties, in writing, of the nomination(s):

(i) The owner(s) of land or interests in land that are included in the nomination; and

(ii) The Committee on Interior and Insular Affairs of the U.S. House of Representatives and the Committee on Energy and Natural Resources of the U.S. Senate.

The NPS prepares and issues a press release on the U.S. World Heritage nomination(s).

§ 73.9 World Heritage criteria.

The World Heritage Committee uses the following criteria to evaluate the World Heritage potential of cultural and natural properties nominated to it:

(a) *Criteria for the Inclusion of Cultural Properties on the World Heritage List.* (1) A monument, group of buildings or site—as defined in Article I of the Convention—which is nominated for inclusion in the World Heritage List will be considered to be of outstanding universal value for the purposes of the Convention when the Committee finds that it meets one or more of the following criteria *and* the test of authenticity. Each property nominated should therefore:

(i) Represent a unique artistic achievement, a masterpiece of the creative genius; or

(ii) Have exerted great influence, over a span of time or within a cultural area of the world, on developments in architecture, monumental arts or townplanning and landscaping; or

(iii) Bear a unique or at least exceptional testimony to a civilization which has disappeared; or

(iv) Be an outstanding example of a type of structure which illustrates a significant stage in history; or

(v) Be an outstanding example of a traditional human settlement which is representative of a culture and which has become vulnerable under the impact of irreversible change; or

(vi) Be directly or tangibly associated with events or with ideas or beliefs of outstanding universal significance. (The Committee considered that this criterion should justify inclusion in the List only in exceptional circumstances or in conjunction with other criteria); and

In addition, the property must meet the test of authenticity in design, materials, workmanship, or setting.

(2) The following additional factors will be kept in mind by the Committee in deciding on the eligibility of a cultural property for inclusion on the List:

(i) The state of preservation of the property should be evaluated relatively, that is, it should be compared with that of other property of the same type dating from the same period, both inside and outside the country's borders; and

(ii) Nominations of immovable property which is likely to become movable will not be considered.

(b) *Criteria for the Inclusion of Natural Properties on the World Heritage List.* (1) A natural heritage property—as defined in Article 2 of the Convention—which is submitted for inclusion in the World Heritage List will be considered to be of outstanding universal value for the purposes of the Convention when the Committee finds that it meets one or more of the following criteria and fulfills the conditions of integrity set out below. Properties nominated should therefore:

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(i) Be outstanding examples representing *the major stages of the earth's evolutionary history*. This category would include sites which represent the major "eras" of geological history such as "the age of reptiles" where the development of the planet's natural diversity can well be demonstrated and such as the "ice age" where early man and his environment underwent major changes; or

(ii) Be outstanding examples representing *significant ongoing geological processes, biological evolution, and man's interaction with his natural environment*; as distinct from the periods of the earth's development, this focuses upon ongoing processes in the development of communities, of plants and animals, landforms, and marine and fresh water bodies; or

(iii) *Contain superlative natural phenomena, formations or features or areas of exceptional natural beauty*, such as superlative examples of the most important ecosystems, natural features, spectacles presented by great concentrations of animals, sweeping vistas covered by natural vegetation and exceptional combinations of natural and cultural elements; or

(iv) *Contain the foremost natural habitats where threatened species of animals or plants of outstanding universal value from the point of view of science or conservation still survive*.

(2) In addition to the above criteria, the sites should also fulfill the conditions of integrity:

(i) The areas described in paragraph (b)(1)(i) of this section should contain all or most of the key interrelated and interdependent elements in their natural relationships; for example, an "ice age" area would be expected to include the snow field, the glacier itself, and samples of cutting patterns, deposition, and colonization (striations, moraines, pioneer stages of plant succession, etc.).

(ii) The areas described in paragraph (b)(1)(ii) of this section should have sufficient size and contain the necessary elements to demonstrate the key aspects of the process and to be self-perpetuating. For example, an area of "tropical rain forest" may be expected to include some variation in elevation above sea level, changes in to-

pography and soil types, river banks or oxbow lakes, to demonstrate the diversity and complexity of the system.

(iii) The areas described in paragraph (b)(1)(iii) of this section should contain those ecosystem components required for the continuity of the species or of the objects to be conserved. This will vary according to individual cases; for example, the protected area of a waterfall would include all, or as much as possible, of the supporting upstream watershed; or a coral reef area would be provided with control over siltation or pollution through the stream flow or ocean currents which provide its nutrients.

(iv) The area containing threatened species as described in paragraph (b)(1)(iv) of this section should be of sufficient size and contain necessary habitat requirements for the survival of the species.

(v) In the case of migratory species, seasonal sites necessary for their survival, wherever they are located, should be adequately protected. If such sites are located in other countries, the Committee must receive assurances that the necessary measures be taken to ensure that the species are adequately protected throughout their full life cycle. Agreements made in this connection, either through adherence to international conventions or in the form of other multilateral or bilateral arrangements, would provide this assurance.

(3) The property should be evaluated relatively, that is, it should be compared with other properties of the same type, both inside and outside the country's borders, within a biogeographic province, or migratory pattern.

§ 73.11 Federal Interagency Panel for World Heritage.

(a) *Responsibilities*. The Federal Interagency Panel for World Heritage is established to advise the Department of the Interior on implementation of the World Heritage Convention. Among other things, the panel assists in the following activities:

(1) The development of policy and procedures for effectively implementing the Convention in the U.S.;

(2) The evaluation of draft U.S. nomination documents;

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(3) The making of recommendations for approval of U.S. nominations;

(4) The dissemination of information on the Convention within other Federal agencies; and

(5) The promotion of increased awareness and understanding of the importance of heritage conservation.

(b) *Composition.* (1) The Federal Inter-agency Panel for World Heritage is composed of representatives, named by their respective agencies, from the following agencies and offices:

(i) The Office of the Assistant Secretary for Fish and Wildlife and Parks, U.S. Department of the Interior;

(ii) The National Park Service, U.S. Department of the Interior;

(iii) The U.S. Fish and Wildlife Service, U.S. Department of the Interior;

(iv) The President's Council on Environmental Quality;

(v) The Smithsonian Institution;

(vi) The Advisory Council on Historic Preservation;

(vii) The National Oceanic and Atmospheric Administration, Department of Commerce; and

(viii) The Department of State.

(2) Additional representatives from other Federal agencies with mandates and expertise in heritage conservation may be requested to participate in the Panel from time to time.

(3) The Assistant Secretary, or his/her designee, chairs the Panel, and sets its agenda and schedule. The NPS provides staff support to the Panel.

§ 73.13 Protection of U.S. World Heritage properties.

(a) *Requirements.* (1) Article 5 of the Convention mandates that each participating nation shall take, insofar as possible, the appropriate legal, scientific, technical, administrative, and financial measures necessary for the identification, protection, conservation, preservation, and rehabilitation of properties of outstanding universal value; and

(2) Title IV of Pub. L. 96-515 requires that no non-Federal property may be nominated to the World Heritage List unless its owner concurs in writing to such nomination. The nomination document for each property must include evidence of such legal protections as may be necessary to ensure preserva-

tion of the property and its environment, including, for example, restrictive covenants, easements, and other forms of protection (16 U.S.C. 470a-1).

(b) *Protection Measures for Public Properties.* For properties owned or controlled by Federal, State, and/or local governments, the following items satisfy the protection requirements outlined in paragraph (a) of this section:

(1) Written concurrence by the owner prior to nomination;

(2) The nomination document must include reference to:

(i) All legislation establishing or preserving the area; and

(ii) All existing and proposed administrative measures, including management plans, that would ensure continued satisfactory maintenance of the property and its environment; and

(3) A written statement by the owner(s) that such protection measures satisfy the requirements outlined in (a) above.

(c) *Protection Measures for Private Properties.* For properties owned or controlled by private organizations or individuals, the following items satisfy the protection requirements outlined in (a) of this section.

(1) A written covenant executed by the owner(s) prohibiting, in perpetuity, any use that is not consistent with, or which threatens or damages the property's universally significant values, or other trust or legal arrangement that has that effect; and

(2) The opinion of counsel on the legal status and enforcement of such a prohibition, including, but not limited to, enforceability by the Federal government or by interested third parties.

In addition, if the owner(s) is willing, a right of first refusal may be given for acquisition of the property, along with a guaranteed source of funding and appropriate management framework, in the event of any proposed sale, succession, voluntary or involuntary transfer, or in the unlikely event that the requirements outlined above prove to be inadequate to ensure the preservation of the property's outstanding universal value. The protection measures for each private property being considered for possible nomination to the World Heritage List will be reviewed on a case-by-case basis to ensure that the

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requirements set forth above fulfill the mandate of Pub. L. 96-515.

§ 73.15 International World Heritage activities.

(a) The Assistant Secretary, and other officials as appropriate, may represent the U.S. at meetings of the World Heritage Committee, the Bureau of the World Heritage Committee, or other international organizations or agencies which have activities that relate to World Heritage.

(b) In furtherance of Article 6 of the Convention and to the extent that resources permit, the Department will encourage and provide international assistance to other nations in activities relating to the identification, protection, conservation, and preservation of cultural and natural properties. The Secretary, or his designee, may develop and make available to other nations and international organizations training in, and information concerning, professional methods and techniques for the preservation of historic and natural properties (16 U.S.C. 470d; 16 U.S.C. 1537).

(c) NPS staff, in conjunction with the Federal Interagency Panel for World Heritage, provide support for the Assistant Secretary's international activities, including the preparation of documentation, briefing papers, and position statements.

(d) The Assistant Secretary responds, on behalf of the U.S., to requests from the World Heritage Committee, international heritage conservation organizations, or other nations regarding U.S. participation in the World Heritage Convention.

§ 73.17 Public information and education activities.

(a) To the extent that time and resources permit, owners of U.S. properties approved for inclusion on the World Heritage List are encouraged to publicize the status of the property, through appropriate signs, plaques, brochures, public dedication ceremonies, and interpretive displays or programs.

(b) The Department, through the NPS, may provide guidance to owners of U.S. World Heritage properties in de-

veloping publicity, educational, and/or interpretive programs.

(c) The NPS is responsible for developing and distributing general information materials on the World Heritage Convention, including brochures, slideshows, lectures, or other presentations in order to strengthen appreciation and understanding of the importance of World Heritage as set forth in Article 27 of the Convention.

PARTS 74-77 [RESERVED]

PART 78—WAIVER OF FEDERAL AGENCY RESPONSIBILITIES UNDER SECTION 110 OF THE NATIONAL HISTORIC PRESERVATION ACT

Sec.

78.1 Authorization.

78.2 Definitions.

78.3 Federal Agency decision to waive responsibilities.

78.4 Federal Agency notice.

78.5 Review by the Secretary of the Interior.

AUTHORITY: National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470 *et. seq.*

SOURCE: 50 FR 7590, Feb. 25, 1985, unless otherwise noted.

§ 78.1 Authorization.

Section 110 of the National Historic Preservation Act of 1966, as amended ("Act"), sets forth certain responsibilities of Federal agencies in carrying out the purposes of the National Historic Preservation Act of 1966. Subsection 110(j) authorizes the Secretary of the Interior to promulgate regulations under which the requirements in section 110 may be waived in whole or in part in the event of a major natural disaster or an imminent threat to the national security. Waiver of responsibilities under section 110 does not affect an agency's section 106 responsibilities for taking into account the effects of emergency activities on properties included in or eligible for the National Register of Historic Places and for affording the Advisory Council on Historic Preservation an opportunity to comment on such activities.